

- 13.11 An agreement made pursuant to this Condition shall not contain any restrictive provision unless, before the agreement is made, the Director has expressly consented to the inclusion of such a provision or has determined that that provision should be included under paragraph 13.5 or 13.6 and, for the purposes of this paragraph, a provision in an agreement is a restrictive provision if by virtue of the existence of such a provision (taken alone or with other provisions) the agreement is one to which the Restrictive Trade Practices Act 1976 would apply but for paragraph 1 (1) of Schedule 3 to that Act.
- 13.12 Where the Director so directs the Crown shall be treated for the purposes of this Condition as a person authorised to run a Relevant Connectable System and where he does so he may also direct that the Crown is to be treated as a Long Line Public Telecommunications Operator for those purposes.

CONDITION 13A

EQUAL ACCESS

- 13A.1 This Condition applies in respect of any Long Line Public Telecommunications Operator (the term "Operator" referring in this Condition 13A to such an Operator) with whom the Licensee has entered into an agreement as required by Condition 13.1 and where the Director has made a direction under paragraph 13A.2.
- 13A.2
- (a) At any time after 31 December 1992 the Director may, subject to the provisions of paragraph 13A.3, make a direction that whenever an Operator so requests after a date specified in the direction the Licensee shall make Equal Access available in respect of that Operator on the basis set out in this Condition 13A.
 - (b) The direction shall contain a functional specification of exchange software for the provision of Equal Access. The specification shall be that submitted to the Director by the Licensee (following receipt of a request from the Director) or, if the Director, having carried out such consultation as appears to him appropriate, considers that specification to be unsatisfactory, in a form determined by the Director. Before making such a determination the Director shall notify the Licensee as to why the Licensee's specification is unsatisfactory and give the Licensee the opportunity to make representations.
- 13A.3 The Director shall not make a direction under paragraph 13A.2 unless:
- (a) he has carried out a cost-benefit analysis comparing the likely benefits to telecommunications customers to be gained from the introduction of Equal Access with all costs likely to be incurred, including opportunity costs, which analysis indicates that the gains outweigh the likely costs; and
 - (b) in his opinion sufficient arrangements in relation to the pricing of telecommunication services provided by the Licensee have been made in relation to the following matters to achieve fair competition:
 - (i) the extent to which the Licensee has been able to rebalance its charges to align them more appropriately with costs;
 - (ii) the extent to which regulatory controls, whether imposed by this Licence or otherwise and including voluntary commitments, affect the balance referred to in paragraph 13A.3 (b) (i);
 - (iii) the amount and structure of charges payable to the Licensee by virtue of agreements with Operators entered into by the Licensee under Condition 13; and

- (iv) the extent to which charges are payable to the Licensee by virtue of Condition 19.

13A.4 When carrying out the cost-benefit analysis referred to in paragraph 13A.3 (a), the Director shall consult the Licensee and such other persons as appear to him appropriate, affording them a reasonable period, being not less than 28 days, in which to make representations, and he shall take their representations into account when reaching his conclusions. On conclusion of the analysis he shall make it available to the Licensee and such other persons.

13A.5 (a) In this Condition "Equal Access" means a facility provided to an Operator whereby he can arrange with a customer of the Licensee that, following a request by that customer to the Licensee, the customer may choose over which public telecommunications system, being a system run by a Long Line Public Telecommunications Operator, to route National and International calls made by means of an Exchange Line provided to him by the Licensee. The choice shall be exercisable in either of the following ways, at the option of the customer:

- (i) by pre-selection, that is to say that the customer may, by registering a preference with the Licensee, name a particular such Operator for the conveyance of all such calls. The Licensee may offer to provide a facility to override the preference in the case of any particular call; or
- (ii) on a call-by-call basis, that is to say that the customer must, for each call, exercise his choice by dialling a short initial code designated for the particular such Operator (or the Licensee) chosen by the customer for the call in question. The respective initial codes for the Licensee and for all Operators shall be of equal length.

"National" and "International" calls shall be defined by reference to the Licensee's charges and other terms and conditions published in accordance with Condition 16.

- (b) The Licensee shall not require the customer to acquire any special equipment or to pay any fee as a prerequisite to his being able to obtain the Equal Access facility. For the avoidance of doubt the Licensee may impose a charge if a customer who has registered a preference changes that preference in any way.

13A.6 Where a Long Line Public Telecommunications Operator requires the Licensee to provide Equal Access, and specifies exchanges forming part of the Applicable Systems at which it is to be provided, and the Licensee has not, after a reasonable period, entered into an agreement with that Operator for the provision of Equal Access, the Director may, on the application of either the Licensee or the Operator, determine the terms and conditions of the agreement, being terms and conditions necessary for the provision of

Equal Access, or such terms and conditions which the Licensee and the Operator have failed to agree.

13A.7 Before making a determination under paragraph 13A.6, the Director shall:

- (a) carry out in relation to the Operator concerned an analysis taking into account the results of the analysis referred to in paragraph 13A.3 (a) comparing the benefits likely to be gained with all the costs incurred and likely to be incurred, including opportunity costs. The provisions of paragraph 13A.4 shall apply to the analysis. The purpose shall be to decide whether, in relation to that Operator's request for Equal Access, the costs will outweigh the benefits; and
 - (i) if the Director concludes that the costs will outweigh the benefits, his determination shall secure that no part of those costs shall be borne by the Licensee;
 - (ii) if the Director concludes that the benefits will outweigh the costs, his determination shall secure that the costs are apportioned as provided in paragraph 13A.10; and
- (b) notify the Licensee and that Operator in respect of which terms and conditions he proposes to make a determination, and why, and shall afford the Licensee and that Operator adequate time, being not less than 28 days, in which to make representations.

13A.8 In making a determination under paragraph 13A.6, the Director shall:

- (a) subject to paragraph 13A.10, secure that the principles set out in Condition 13.5 (a) to (g), so far as applicable, are achieved; and
- (b) secure that the Licensee's obligation in relation to the provision of Equal Access is limited to:
 - (i) the acceptance of registrations of such preference as is referred to in sub-paragraph 13A.5 (a) (i);
 - (ii) the delivering of calls to the Operator's system in accordance with the choice of the Licensee's customers as described in paragraph 13A.5; and
 - (iii) the provision of facilities contained in the specification referred to in paragraph 13A.2 (b).

13A.9 (a) Where the Director makes a determination under paragraph 13A.6 he shall secure that any development of the Applicable Systems made necessary thereby is consistent with the Licensee's then planned programme of network modernisation and development and in particular that the Licensee is not required to introduce Equal Access at any exchange if to do so would involve either:

- (i) modernising the exchange in a case where, but for the proposed introduction of Equal Access, the exchange would not have been modernised at that time; or
 - (ii) a significant risk of impairment to the quality of telecommunication services provided by means of the Applicable Systems.
- (b) Subject to paragraph 13A.9 (a), where the Director makes a determination under paragraph 13A.6 the following shall apply in relation to the preparation of exchanges for Equal Access:
- (i) The determination may require the Licensee to introduce Equal Access within a reasonable period. At a digital exchange to which the determination relates which does not require conversion for the introduction of Equal Access, a reasonable period for adapting the exchange to provide Equal Access shall be six months. In relation to such an exchange which does require conversion, or any other exchange of an exchange type which is capable of conversion to provide Equal Access, a reasonable period for conversion and adaptation shall, subject to paragraph 13A.9 (a), be eighteen months. Different periods may be specified for different exchanges;
 - (ii) Where at the date of the determination an exchange to which it relates is not digital, and is of an exchange type which is not capable of conversion to provide Equal Access, the Licensee shall ensure (subject to paragraph 13A.9 (a)) that, when modernisation to digital is planned, the specification therefor provides for Equal Access.

13A.10 Where, in an analysis carried out under paragraph 13A.7 (a), the Director concludes that the benefits will outweigh the costs, any determination under paragraph 13A.6 shall secure that the Licensee's costs of introducing Equal Access are apportioned according to the following provisions:

- (a) The following costs of introducing Equal Access, among any others which the Director may consider relevant, shall be included among those brought into account:
 - (i) costs incurred by the Licensee which are not related to any particular locality consisting of initial development and set-up costs including, without limitation, the costs of hardware design and production, the costs of software development and the costs of planning and training;
 - (ii) costs incurred by the Licensee in relation to a particular locality where an Operator has requested the introduction of Equal Access, consisting of initial development and set-up costs in

relation to that locality including, without limitation, the costs of installation of hardware and software and the costs of distribution of necessary documentation and instructions and of training;

- (iii) the incremental costs of providing at any particular locality Equal Access to any further Operator after the first Operator at that locality;
- (iv) the costs per customer of registering preferences and of implementing arrangements for the initial code referred to in paragraph 13A.5 (a) (ii); and
- (v) the costs per customer of changing registered preferences or removing, in relation to any particular exchange line, arrangements for the initial code.

(b) Subject to paragraph 13A.10 (c) and (d):

- (i) the costs referred to in paragraph 13A.10 (a) (i) shall be apportioned between the Licensee and Operators who make requirements under paragraph 13A.6. The costs shall initially be apportioned between the Licensee and the first such Operator. Procedures will be established for subsequent Operators to make a proportionate contribution to the costs in such manner as the Director shall determine from time to time;
- (ii) the costs referred to in paragraph 13A.10 (a) (ii) shall be apportioned between the Licensee and Operators who make requirements under paragraph 13A.6 in relation to the particular locality. The apportionment rules set out in paragraph 13A.10 (b) (i) shall apply *mutatis mutandis*;
- (iii) where the addition of an Operator at a locality reduces the contribution to the costs of Equal Access at that locality of the Licensee and the other Operators, the procedures in paragraph 13A.10 (b) (i) shall apply *mutatis mutandis* to the costs referred to in paragraph 13A.10 (a) (iii). In any other case that Operator shall pay such costs;
- (iv) the costs referred to in paragraph 13A.10 (a) (iv) and (v) above shall be met by the Long Line Public Telecommunications Operator, whether the Licensee or an Operator, to whom the customer chooses to route calls by registering a preference or, where the customer exercises choice on a call-by-call basis, apportioned equitably among the Long Line Public Telecommunications Operators (including, where appropriate, the Licensee) to whom the customer has the option of routing calls from time to time.

- (c) The apportionment of the costs referred to in paragraph 13A.10 (a) (i), (ii) and (iii) shall reflect equitably the benefit to the Operator and his customers, actual and potential, of the implementation of Equal Access in relation to that Operator.
- (d) Before determining the apportionment of any costs referred to in paragraph 13A.10 (a), the Director shall inform the Licensee and the Operator of his proposed determination, together with a full explanation of how it is calculated, and shall allow the Licensee and the Operator a reasonable period, being not less than 28 days, in which to make representations.

13A.11 In this Condition 13A, "potential" customers include those customers of the Licensee who it is reasonable to expect will apply for the Equal Access facility.

13A.12 The provisions of this Condition form part of Condition 13 and accordingly shall be treated for all purposes as contained and laid down in Condition 13.

CONDITION 13B

ESSENTIAL INTERFACES

- 13B.1 This Condition is without prejudice to Condition 13.
- 13B.2 (a) The Director may, having first notified the Licensee of his proposal, affording the Licensee adequate time, being not less than 28 days, in which to make representations, specify an Essential Interface.
- (b) "Essential Interface" means in respect of a point of connection, as defined in Condition 13.5C, an interface at which in the opinion of the Director it is essential that interoperability between the Applicable Systems and the respective Operator's system is available.
- 13B.3 (a) Where in pursuance of paragraph 13B.2 the Director specifies an interface as an Essential Interface, and the Licensee thereafter makes that interface available to an Operator in relation to its Applicable Systems, it shall do so in such a manner as it considers appropriate, but shall ensure such availability in compliance with the Relevant Standard if the Operator so requires.
- (b) "Relevant Standard" means:
- (i) an appropriate European or other international standard; or
- (ii) in the absence of such a standard, any other standard specified by the Director after notifying the Licensee of his proposal and allowing the Licensee adequate time, being not less than 28 days, in which to make representations, provided that the Director shall not specify a standard if an appropriate European or other international standard is expected to be promulgated within a reasonable time, including, by way of example, if the European Telecommunications Standards Institute have published a work programme for the development of such a standard;
- to the extent that such a standard is necessary to ensure interoperability.
- (c) Where in pursuance of paragraph 13B.3 (b) (ii) the Director specifies a standard as a Relevant Standard, he shall include in that Standard a technical specification. The Director shall use all reasonable endeavours to obtain the agreement of the Licensee and other relevant licensees to a technical specification applicable to the Standard, being a specification defined by reference to:
- (i) an appropriate European or other international specification; or

- (ii) in the absence of such a specification, a specification defined by reference to any other standard having currency within the European Community at the time.

Where after a reasonable time the Director has been unable to secure the agreement of the Licensee and other relevant licensees to a technical specification, the Director shall adopt for inclusion in the Relevant Standard an appropriate technical specification selected by him which has been promulgated by a recognised standards body, including, by way of example, the European Telecommunications Standards Institute, or the British Standards Institution, or other such body as is recognised by the Director as representative of all relevant telecommunications interests.

- (d) In any event the Director shall specify a Relevant Standard in pursuance of paragraph 13B.3 (b) only if the owners of relevant intellectual property rights have agreed to grant any necessary licences in respect thereof to the Licensee on reasonable terms.

13B.4 For the avoidance of doubt this Condition shall not:

- (a) without prejudice to paragraph 13B.3, prevent the Licensee using such interfaces as it considers appropriate in relation to the Applicable Systems; or
- (b) where it makes available to an Operator an interface which the Director has specified as an Essential Interface, require the Licensee to comply with the Relevant Standard if the Operator does not require it to do so.

13B.5 When implementing an Essential Interface, the Licensee shall not be obliged to conform with the Relevant Standard:

- (a) if to do so would necessitate the Licensee:
 - (i) acquiring apparatus, software or other goods or supplies of any kind, or implementing any operation, incompatible with, as the case may be, apparatus, software or such other goods or supplies already at the time in use, or the subject at the time of contracts for their procurement for use, in connection with any of the Applicable Systems, or, in the case of an operation, incompatible with any other operation being carried out at the time in connection therewith; or
 - (ii) incurring any cost, or having to resolve technical difficulties, disproportionate to the benefits to be gained from the implementation of the Relevant Standard;

provided that the Licensee shall take reasonable steps to incorporate the Relevant Standard in its plans for network development, with a

view to implementation of that Standard in connection with the Applicable Systems, but without the Licensee incurring any incremental expenditure disproportionate to the benefits to be gained from the implementation of the Relevant Standard which, but for the implementation of the Relevant Standard, would not have been incurred;

- (b) if the Relevant Standard is inappropriate for the particular application for any reason, including, without limitation:
 - (i) that it does not afford the Licensee adequate protection for the security of the Applicable Systems;
 - (ii) that its implementation would be liable to cause material impairment in the quality of any telecommunications service provided by means of any of the Applicable Systems;
 - (iii) that it does not cater adequately for billing, metering or other customer administration systems; or
 - (iv) that it is technically inadequate in the light of technical developments which have taken place since it was originally created;
- (c) if the Essential Interface concerned is of a genuinely innovative nature and accordingly the use in connection with it of the Relevant Standard would not be appropriate;
- (d) if compliance with the Relevant Standard would involve the infringement by the Licensee of any intellectual property right vested in any person; or
- (e) if the Director so agrees.

13B.6 Where paragraph 13B.5 (b) or (c) applies the Licensee shall notify the Director thereof, with an explanation why.

13B.7 It is a precondition of any obligation on the Licensee under this Condition that equivalent obligations as are contained in this Condition are included in the respective licences of all Operators.

13B.8 In this Condition "Operator" has the meaning given to it in Condition 13.1.

CONDITION 14

CONNECTION OF OTHER SYSTEMS AND APPARATUS

14.1 Subject to the provisions of this Condition the Licensee:

- (a) shall connect, at a Network Termination Point within Network Termination and Testing Apparatus situated on Served Premises, any of the Applicable Systems to:
 - (i) any item of telecommunication apparatus which is approved for the time being for connection to that Applicable System under section 22 of the Act; or
 - (ii) any other telecommunication system to which this Condition applies which is or is to be run by the Crown or which is composed of apparatus which is approved for connection to that system;

which is owned by or supplied to another person, at the written request of such person, where such connection is or is to be made of by means requiring the use of a tool;

- (b) shall not discontinue such connection of any such apparatus or system lawfully made; and
- (c) shall permit any person to connect, or to keep connected, at a Network Termination Point within Network Termination and Testing Apparatus comprised in any Applicable System any such apparatus or other such system where such connection is or is to be made by means that do not require the use of a tool.

14.2 Apparatus shall not be regarded as approved for connection to any system for the purposes of paragraph 14.1 unless that apparatus has been so approved:

- (a) by the Secretary of State; or
- (b) by some other person by virtue of an authorisation given by the Secretary of State being an authorisation which required the person authorised, before approving any apparatus or designating any standard to which apparatus must conform if it is to be approved, to be satisfied that connection of the apparatus to the system would not be liable:
 - (i) to cause the death of, or personal injury to, or damage to the property of the Licensee or any person engaged in the running of that system; or

- (ii) materially to impair the quality of any telecommunication service provided by means of that system or any system connected to it (other than the system being connected).

14.3 No apparatus or system is required under paragraph 14.1 to be, or to be permitted to be, kept connected to any of the Applicable Systems if that apparatus, or any apparatus comprised in that system, as the case may be:

- (a) conformed to the relevant standard or standards at the time when the connection to the Applicable System was made but no longer does so and does not conform to the relevant standard or standards (if any) for the time being designated under section 22 (6) of the Act; or
- (b) while continuing to conform to the relevant standard is in the opinion of the Licensee liable to cause the death of, or personal injury to, or damage to the property of, the Licensee, or any person engaged in the running of any of the Applicable Systems or materially to impair the quality of any telecommunication service provided by means of any Applicable System and the Director has not expressed a contrary opinion.

14.4 For the purposes of this Condition apparatus shall not be regarded as constituting a system if it would not, but for its connection to any of the Applicable Systems, constitute such a system, and this Condition applies to any apparatus or system which is not a Relevant Connectable System within the meaning of Condition 13.

CONDITION 15

PROVISION BY OTHERS OF SERVICES BY MEANS OF THE APPLICABLE SYSTEMS

15.1 The Licensee shall permit any person, who is licensed to run a Connectable System under a Licence which authorises him to provide telecommunication services to others, including Connection Services, to provide such services whilst that Connectable System is connected to the relevant Applicable System.

15.2 The Licensee shall permit any person:

- (a) using telecommunication apparatus which is lawfully connected to any of the Applicable Systems or which is connected to another telecommunication system which itself is lawfully connected to any of the Applicable Systems; or
- (b) running a telecommunication system which is so connected;

to provide by means of the Applicable Systems any service other than the installation, maintenance, adjustment, repair, alteration, moving, removal or replacement of telecommunication apparatus comprised in any of the Applicable Systems.

15.3 The Licensee shall, following a request by any Service Provider to do so, provide to that Service Provider any description of telecommunication service which the Licensee at the time the request is made offers to its customers generally and which is specified in the request, on terms which would not prohibit the Service Provider from contracting with another person to provide that person with that description of service.

15.4 (a) If on an application by a Service Provider the Director is satisfied that the Service Provider has established a prima facie case that any charge, term or condition proposed by the Licensee is unreasonable and that the Licensee has acted unreasonably in relation to negotiations on it, the Director may, if he considers it necessary to do so, determine that the Licensee shall modify that provision in such a way as to make it reasonable, in the agreement with the Service Provider.

In applying this paragraph 15.4:

- (i) no determination made shall affect any exclusion or restriction equivalent to one which is, at the relevant time, included in the Licensee's current usual terms and conditions upon which the Licensee provides the same description of service to the generality of the Licensee's customers in a way which would or might have the effect of rendering the position of the Licensee in relation to the provision of the service the subject of the

determination worse than the position of the Licensee in relation to the provision of the same description of service to the generality of the Licensee's customers;

- (ii) any such modified provision shall be confined to the subject matter of the term or condition proposed by the Licensee except that, where the Director considers that a term or condition is essential in relation to subject matter not covered by any term or condition proposed by the Licensee, he may determine a term or condition to cover that subject matter;
 - (iii) the Licensee shall not be deemed to have acted unreasonably merely by virtue of having proposed the term or condition in question; and
 - (iv) no determination may be made in relation to any provision which would be subject to the Unfair Contract Terms Act 1977.
- (b) Before making a determination under paragraph 15.4 (a) the Director shall notify to the Licensee and the Service Provider the grounds of the Service Provider's application and his conclusions thereon and the modification he proposes to make or require the Licensee to make, and shall afford the Licensee and the Service Provider adequate time, being not less than 28 days, in which to make representations.

- 15.5
- (a) Subject to the terms of this paragraph 15.5, any charge determined under paragraph 15.4 by the Director shall be determined by reference to the Licensee's usual charge ("the usual charge") for the provision to its customers generally of the service of the description in question ("the Service").
 - (b) Any charge determined under paragraph 15.4 by the Director shall not be:
 - (i) less than the usual charge for the Service by an amount which exceeds any cost savings of the Licensee which are shown to be likely; or
 - (ii) less than the usual charge for the Service plus any additional costs of the Licensee which are shown to be likely.
 - (c) Where the cost to the Licensee of the provision of a service to a Service Provider exceeds the usual charge no charge determined under paragraph 15.4 shall be less than the usual charge.
 - (d) In this paragraph 15.5 "costs" means fully allocated costs and a reasonable rate of return on capital employed.

- 15.6 If at any time it appears to the Director that the Service Provider no longer satisfies the criteria within paragraph 15.8 (a), the Director may, on giving

not less than three months notice to both the Licensee and the Service Provider of his intention to do so, direct the Licensee to cease providing that description of telecommunication service to the Service Provider.

15.7 Where a direction given by the Director under paragraph 15.6 contains a statement that it appears to him that the need to protect the customers of the Service Provider or to protect any other person requires that the direction should be made without delay, the Director shall not be required to give the notice required to be given by paragraph 15.6 or any notice.

15.8 In this Condition "Service Provider" means:

- (a) any person proposing to carry on the business of reselling any description of telecommunication service proposed to be provided to that person by the Licensee and in respect of whom the Licensee has no reason to believe that such person will be unable to carry on that business effectively, economically and efficiently; or
- (b) any person actually carrying on that business from time to time; or
- (c) where, on the application of any person proposing to carry on that business to whom the Licensee has refused to provide any telecommunication service, the Director is satisfied that such service has been refused and has determined that such service should be provided by the Licensee to such person, that person;

but does not in any case mentioned in paragraph 15.8 (a), (b) or (c) include any person who carries on or would carry on that business by means which necessarily involve the running of a telecommunication system by him or on his behalf.

15.9 Nothing in this Condition affects any need for a Service Provider to have any licence in respect of the service which is the subject of a request referred to in paragraph 15.3.

CONDITION 16

PUBLICATION OF CHARGES, TERMS AND CONDITIONS TO BE APPLIED

- 16.1 Subject to the provisions of Condition 24F, in relation to services other than the provision of Relevant Private Circuits the Licensee shall, except in so far as the Director may otherwise consent in writing and except in respect of terms and conditions which have been or could be determined under Condition 13:
- (a) publish in the manner and at the times specified in paragraph 16.3 a notice specifying, or specifying the method that is to be adopted for determining, the charges and other terms and conditions on which it offers:
 - (i) to provide each description of telecommunication service by means of any of the Applicable Systems in accordance with an obligation imposed by or under this Licence;
 - (ii) to maintain, adjust or repair any apparatus comprised in any of the Applicable Systems in accordance with an obligation imposed by or under this Licence;
 - (iii) to connect to any of the Applicable Systems any apparatus or any other system which, in either case, is not and is not to be comprised in any of the Applicable Systems in accordance with an obligation imposed by or under this Licence;
 - (iv) to grant permission to connect such systems or apparatus to, or to provide services by means of, any of the Applicable Systems in accordance with an obligation imposed by or under this Licence; or
 - (v) to Bring into Service any apparatus or system which, in either case, is or is to be connected to but not comprised or to be comprised in any of the Applicable Systems, where only the Licensee is permitted to provide such service; and
 - (b) where it does any of the things mentioned in paragraph 16.1 (a) (i) to (v), do those things at the charges and on the other terms and conditions so published and not depart therefrom.
- 16.2 The requirement to publish under paragraph 16.1 shall not apply in respect of any service which is materially different from any service already provided by the Licensee by means of any of the Applicable Systems until such time as it is provided.
- 16.3 Publication of the notice referred to in paragraph 16.1 (a) shall be effected by:

- (a) sending a copy thereof to the Director not more than 28 days after the date on which this Licence enters into force and thereafter not less than 28 days before any proposal to amend any charge, term or condition or the method of determining the same is to become effective, provided however that if the Director consents in writing to any variation in a proposal to amend those charges, terms, conditions or methods in the said period of 28 days the Licensee shall not be prevented from making the amendments with variations 28 days after the date when the notice was first sent to the Director in accordance with this sub-paragraph: Provided that in its application to any Relevant Service, this sub-paragraph shall have effect as if the words "one day" were substituted for the words "28 days" wherever they appear. In respect of a service to which paragraph 16.2 applies a copy of the notice shall be sent to the Director at the time the service is first provided;
- (b) placing as soon as practicable thereafter a copy thereof in a publicly accessible part of every Major Office of the Licensee in such manner and in such place that it is readily available for inspection free of charge by members of the general public during the hours of 10am to 4pm Mondays to Fridays inclusive, except where any such day is a bank holiday (being a day which is, or is to be observed as, a bank holiday, or a holiday, under the Banking and Financial Dealings Act 1971) in that part of the United Kingdom where the Major Office in question is situate, Christmas Day or Good Friday or during such shorter hours as the Director may direct; and
- (c) sending a copy thereof or such part or parts thereof as are appropriate to any person who may request such a copy.

Where the Licensee publishes a notice of an amendment to a charge in the form of an extract from the Licensee's price list the new price shall be clearly identifiable and the operative date specified.

- 16.3A The Licensee shall take reasonable measures to ensure that persons who receive any of the things charged for at Main Prices may have the opportunity to inform the Licensee from time to time that they require in advance details of increases to the Main Prices. The Licensee shall in advance of increases in Main Prices send any such persons details of such increases.
- 16.3B The Licensee shall publish by notice in accordance with the presentation given in paragraphs A to C of Schedule 1 to the Telecommunications (Leased Lines) Regulations 1993 information on offerings on technical characteristics, tariffs and supply and usage conditions in respect of Relevant Private Circuits. The information shall be published in the manner provided for in paragraph 16.3 above. Where the information concerns new types of Relevant Private Circuit offerings, it shall be published as soon as possible, and no later than two months before the implementation of the offering. Changes in existing offerings shall be published as soon as possible

and, unless the Director agrees otherwise, no later than two months before the implementation. The supply conditions published pursuant to this paragraph shall include at least the elements defined in paragraph C of Schedule 1 to the Telecommunications (Leased Lines) Regulations 1993.

16.4 In this Condition:

“Major Office” means the office of the General Manager of each telephone area established on the day on which this Licence enters into force or such other offices as the Director may agree from time to time;

“Main Prices” means:

- (a) all periodic charges for the ordinary use and Ordinary Maintenance of an Exchange Line;
- (b) all charges based on duration for the conveyance by means of such Exchange Lines of voice telephony messages; and
- (c) all charges for the provision of a directory information service.

16.5 Where the Licensee offers to provide a Relevant Service paragraph 16.1 (a) (i) shall be deemed to be satisfied in respect of each telecommunication service comprised in that Relevant Service if the Licensee publishes, in the manner and at the times specified in paragraph 16.3, a notice specifying, or specifying the method that is to be adopted for determining, the aggregate charge and other terms and conditions on which it offers to provide the Relevant Service.

16.6 The things mentioned in paragraph 16.1 (a) (i) do not include the provision of any telecommunication service comprised in a Relevant Service provided by the Licensee in so far as that telecommunication service is provided by means of a telecommunication system which is of such a description and run in such a way that if it was run by any person other than a public telecommunications operator it could be run under and in accordance with the Class Licence for the running of branch telecommunication systems granted by the Secretary of State.

CONDITION 16A

PUBLICATION REQUIREMENTS RELATING TO CONDITION 13.1 AGREEMENTS (INTERCONNECT AGREEMENTS)

16A.1 Not later than 28 days after entering into an agreement under Condition 13.1, the Licensee shall publish either:

- (a) an adequate description of the interconnection arrangements provided for by the agreement and the precise method of calculation of the charges referred to in Conditions 13.4 (a) and (aa) together with any provisions of the agreement which relate to particular circumstances which would materially affect those charges; or
- (b) the agreement;

in either case subject to the exclusion of any matter to the exclusion of which the Director shall have consented following representations to him on the matter by the Licensee, the Operator or any other person appearing to him to have an interest in it, prior to publication by the Licensee. Where the Director notifies the Licensee that he is considering such representations, the Licensee shall refrain from publication until such time as the Director notifies it of his decision to consent or to refuse his consent. The 28 day period mentioned above shall cease to run on the first notification and shall run once more on the second notification.

The description of the method of calculation referred to in sub-paragraph (a) above shall be such as to enable those charges readily to be calculated by a third party. Any description of such method shall be taken to comply with the requirements of this paragraph 16A.1 if the Director has indicated to the Licensee in advance of its publishing the description that the description does so comply. Where the Director receives, from persons appearing to have a reasonable interest in the matter, representations to the effect that the description is in need of clarification, he may, where such representations appear reasonable, require the Licensee to amend the description so as to provide such clarification as the Director may specify.

16A.2 For the purposes of paragraph 16A.1 publication shall be effected by:

- (a) sending to the Director either a document setting out what is required by paragraph 16A.1 (a) or (as the case may require) the agreement; and
- (b) keeping a list of all such documents or agreements (together with a note of the address and telephone number of the person or persons to whom any request for a copy of any or all of such list or documents or agreements or any part or parts of them may be made).

16A.3 The Licensee shall send a copy or copies of such list or such document or documents or of such agreement or agreements or part or parts of them to any person who may (after the expiry of the 28 day period mentioned in

16A.4 The Licensee shall make available and continue to make available in a publicly accessible part of every Major Office of the Licensee in such place as is required by Condition 16.3 (b) a notice of the address and telephone number referred to in paragraph 16A.2 above.

16A.5 Not less than seven days prior to publishing any description of the kind referred to in paragraph 16A.1 (a) above, the Licensee shall send a draft of the proposed description to the Operator.

16A.6 For the purposes of paragraphs 16A.1 - 16A.3 above, "agreement" includes any variation (whether provided for by the agreement or otherwise) of any agreement entered into under Condition 13.1.

16A.7 Where, but for this paragraph, the obligation imposed on the Licensee by paragraph 16A.1 could be satisfied by publishing a variation of an agreement in existence at the time of the coming into force of this Condition, the Licensee shall, instead of publishing the variation, publish an adequate description of the effect of the variation.

CONDITION 16B

STANDARD SERVICES

- 16B.1 Within seven working days after the date on which this Condition comes into force, the Licensee shall refer to the Director for determination under Condition 13.5 (2) the charge to be paid by any Operator to the Licensee for each Initial Standard Service.
- 16B.2 Not later than two months before the commencement of each financial year of the Licensee, commencing with the financial year ending 31 March 1997, the Licensee shall refer to the Director for determination under Condition 13.5 (2) the charge for each Standard Service (other than a Competitive Standard Service) which shall be payable by an Operator in that financial year, the charge for which has been previously determined by the Director pursuant to Condition 13.
- 16B.3 Where the Director has determined the charge payable by an Operator to the Licensee for any Standard Service, following a reference by the Licensee under this Condition, that charge shall, subject to paragraphs 16B.2, 16B.6 (b) and 16B.9, be payable by all Operators which may have requested, or may request in the future, that Standard Service from the Licensee and the Director shall not be required to determine the charge payable by any other Operator to the Licensee, for that Standard Service.
- 16B.4 Without prejudice to paragraph 16B.3, the Licensee shall, subject to the ability of an Operator to whom an offer is made pursuant to paragraph 16B.9 to decline that offer, ensure that:
- (a) the same charge for the same Standard Service is payable by all Operators (whether or not that charge has been determined by the Director);
 - (b) where a Network Component or combination of Network Components is provided by the Licensee from one Business to another Business, the unit cost charged by way of Transfer Charge in respect of that provision is equal to the amount applied to that Network Component or combination of Network Components in the charge payable by an Operator to the Licensee for a Conveyance Standard Service which the Licensee is required to include in the Standard List in accordance with paragraph 16B.8 (a) (iii) (aa); and
 - (c) where a Network Part or combination of Network Parts is provided by the Licensee from one Business to another Business, the unit cost charged by way of Transfer Charge in respect of that provision is equal to the amount applied to that Network Part or combination of Network Parts in the charge payable by an Operator to the Licensee for a Non-conveyance Standard Service which the Licensee is required to include in the Standard List in accordance with paragraph 16B.8 (a) (iii) (bb).

- 16B.5 (a) Subject to sub-paragraph (b), the Licensee may offer to provide a Standard Service to an Operator at a charge (the "New Charge") less than the charge payable for that Standard Service as determined by the Director pursuant to Condition 13.
- (b) The Licensee shall, before it makes an offer pursuant to sub-paragraph (a), send to the Director a written notice (an "Offer Notice") specifying:
- (i) the existing charge payable for the Standard Service;
 - (ii) the proposed New Charge and effective date of the Charge (which may pre-date the Offer Notice);
 - (iii) in the case of a Conveyance Standard Service, the existing amount applied to each Network Component comprised in that Conveyance Standard Service and, in the case of a Non-conveyance Standard Service, the existing amount applied to each Network Part comprised in that Non-conveyance Standard Service, reconciled in each case with the existing charge payable for the relevant Standard Service; and
 - (iv) in the case of a Conveyance Standard Service, the new amount applied to each Network Component comprised in that Conveyance Standard Service and, in the case of a Non-conveyance Standard Service, the new amount applied to each Network Part comprised in that Non-conveyance Standard Service, reconciled in each case with the New Charge payable for the relevant Standard Service.
- (c) If the Director consents to the proposed New Charge, the Licensee shall be entitled to offer the New Charge with effect from any date on or after the proposed effective date (subject to the terms of the consent).
- (d) Notwithstanding sub-paragraph (b), if, in the opinion of the Director, the information provided in an Offer Notice does not contain all the information specified in that sub-paragraph or is inaccurate in any way, the Licensee shall, without prejudice to Condition 52, furnish to the Director, in the manner and at the times as the Director may request, any further information which the Director may reasonably require. For the avoidance of doubt, pending the receipt and consideration of that further information by the Director, the Licensee shall not offer the proposed New Charge to any Operator.
- 16B.6 (a) The Director shall, following a representation by the Licensee or an Operator or both that the market for a Standard Service is competitive, determine whether or not that market is competitive.

(b) If the Director determines that the market for a Standard Service is competitive, then that Standard Service shall be a Competitive Standard Service. If the charge for that Standard Service:

- (i) has been determined by the Director, that charge shall no longer be the charge at which the Licensee is obliged to provide that Standard Service; or
- (ii) has not been determined by the Director, he shall not be required to determine the charge payable by an Operator; and

in each case, the Licensee shall be entitled to set the charge for that Standard Service.

(c) The Director may, following a representation by the Licensee or an Operator or both that the market for a Competitive Standard Service has ceased to be competitive, determine that the market has ceased to be competitive. If the Director determines that the market for a Competitive Standard Service has ceased to be competitive, that Standard Service shall cease to be a Competitive Standard Service and, pursuant to an application by the Licensee or an Operator under Condition 13, the Director shall determine the charge for that Standard Service payable by an Operator to the Licensee pursuant to Condition 13.

16B.7 (a) Before making a determination or giving consent under this Condition, the Director shall consult with the Licensee and Interested Parties. If he concludes that a determination or consent is appropriate, or that a consent is not appropriate, he shall notify the Licensee and Interested Parties of the proposed determination or consent or refusal of consent, as the case may be, and his reasons for proposing to make or give it or refuse to give consent and give each of them a reasonable opportunity to make representations. On making a determination or giving consent or refusing to give consent, he shall notify the Licensee and Interested Parties of the determination or consent or refusal, as the case may be, and his reasons for making or giving it or refusing consent.

(b) Each notification of reasons shall, as appropriate, set out the Director's reasons:

- (i) for proposing to make the determination, or to give or refuse consent, as the case may be; or
- (ii) for making the determination or giving or refusing consent, as the case may be;

those reasons being sufficient to give the Licensee and Interested Parties a reasonable understanding of the proposed decision or decision, as the case may be.

- 16B.8 (a) Except to the extent that the Director otherwise consents, the Licensee shall maintain a full list of Standard Services (the "Standard List") as updated to take account of all changes to it identifying:
- (i) the charge to be paid by an Operator for each Standard Service determined by the Director pursuant to Condition 13;
 - (ii) the charge to be paid by an Operator for each Standard Service:
 - (aa) where that charge is less than the charge mentioned in subparagraph (a) (i) (whether as a result of the operation of Condition 24F or in circumstances where the Director has consented to that lesser charge pursuant to paragraph 16B.5);
 - (bb) where the charge to be paid by an Operator has not been determined by the Director; and
 - (cc) where the charge to be paid by an Operator which has been determined by the Director has ceased to be applicable;
 - (iii) the amount applied to:
 - (aa) each Network Component or combination of Network Components used in providing each Conveyance Standard Service and the unit cost charged by way of Transfer Charge for each Network Component or combination of Network Components provided by one Business to another Business; and
 - (bb) each Network Part or combination of Network Parts used in providing each Non-conveyance Standard Service and the unit cost charged by way of Transfer Charge for each Network Part or combination of Network Parts provided by the Licensee from one Business to another Business reconciled;
- in each case, with the relevant charge mentioned in paragraph (a) (i) or (ii): Provided that in the case of any Network Component, combination of Network Components or a Network Part or combination of Network Parts that is used in the provision of one or more Competitive Standard Services but is not also used in the provision of any other Standard Service that is not a Competitive Standard Service the Licensee shall not be required to include in the Standard List the amount applied to that Network Component, combination of Network Components, Network Part or combination of Network Parts or the unit cost charged by way of Transfer Charge applied in respect of any of those matters;

- (iv) the Transfer Charge for each Network Component which is not used in providing a Conveyance Standard Service;
 - (v) the Transfer Charge for each Network Part which is not used in providing a Non-conveyance Standard Service; and
 - (vi) each Competitive Standard Service.
- (b) As soon as reasonably practicable following a determination by the Director of a charge for a Standard Service the Licensee shall amend the Standard List to take account of that determination and shall publish the amendments made by sending a copy of them to the Director.
 - (c) The Licensee shall send a copy of the most up to date Standard List to any person who may request it on payment of a reasonable charge for it. The Licensee shall send the copy within seven working days after receiving payment of that charge.
 - (d) The Licensee shall make available and continue to make available in a publicly accessible part of every Major Office of the Licensee in the place required by Condition 16.3 (b) a notice of the address and telephone number of the person to whom any request for a copy of the most up to date Standard List may be made.

- 16B.9
- (a) Subject to sub-paragraph (b) and notwithstanding paragraph 6 of Part 1 of Schedule 1, the Licensee shall offer to include in each agreement between the Licensee and an Operator for the provision of any Standard Service, whether subsisting before the date on which this Condition comes into force or otherwise an obligation on the Licensee to provide that Standard Service to that Operator at the charge determined from time to time by the Director pursuant to Condition 13 or any charge less than that charge to which the Director has consented pursuant to paragraph 16B.5, which the Licensee is obliged to apply as a result of the operation of Condition 24F or, in the case of a Competitive Standard Service, which the Licensee has set pursuant to paragraph 16B.6, as the case may be;

Provided that where the agreement provides for the provision by the Licensee to the Operator of more than one Standard Service, the offer shall be made in respect of all the Standard Services for which that agreement provides and the Licensee shall not be in breach of this paragraph if the Operator declines to accept the offer in its entirety.

- (b) Subject to sub-paragraph (a), an offer for the purposes of that sub-paragraph shall not be conditional on the acceptance by the Operator of the inclusion in the agreement of any other terms and conditions except for terms and conditions which are necessarily incidental to the performance of the Standard Service in question.